

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8692 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

GERITA PIYAT SAHAKARI MANDLI LTD

Versus

STATE OF GUJARAT

Appearance:

MR JAYANT PATEL for Petitioner
MR DN PATEL, I/c GP for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE J.N.BHATT

Date of decision: 24/06/1999

ORAL JUDGEMENT

The petitioner has questioned the order dated 31st March, 1988 recorded by the 3rd respondent, District Registrar, under section 107 of the Gujarat Co-operative Societies Act, 1971 (Act), whereby the society of the petitioner has been ordered to be wound up. The appeal filed under section 153 of the Act before the 2nd respondent, the Additional Registrar, Appeals, also came to be dismissed. So was the position in case of revision application filed under section 155 of the Act by its order dated 17.10.88.

That is how this petition under Article 226/227 of the Constitution has been filed.

The main relief sought for by the petitioner society is that the impugned orders directing winding up of the society without giving an opportunity of hearing, are illegal and unauthorized and therefore, they should be quashed. In this connection, reliance is placed on a Division Bench decision of this Court in Apexa Co-op. Bank Ltd vs. District Registrar, 1993 (2) GLH 861. This case is directly covered by the said decision. Hearing has to be afforded to the society before passing the final order of winding up. No such opportunity was given. Therefore, the petition is required to be allowed. Accordingly, the petition is allowed and the impugned orders are quashed and set aside. However, it will be open for the respondent authority to pass appropriate order after affording an opportunity of hearing. Rule is made absolute to the aforesaid extent with no order as to costs.

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